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9 Attorneys for Debtor, Dana Linett

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re

DANA LINETT

Debtor.

CASE NO. 19-05831-LA11

Chapter 11

**FEE APPLICATION FOR
COMPENSATION OF SPECIAL
COUNSEL YALE & BAUMGARTEN,
LLP**

Date: February 10, 2022

Time: 2:00 p.m.

Dept: 2; Room: 118

Judge: Hon. Louise D. Adler

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re

DANA LINETT,

Debtor.

CASE NO: 19-05831-LA11

Chapter 11

SUMMARY SHEET FOR DANA LINETT

Date: February 10, 2022

Time: 2:00 p.m.

Dept: 2; Room: 118

Judge: Hon. Louise D. Adler

CURRENT APPLICATION

Fees Requested:	\$10,000.00	Fees Previously Requested:	\$0.00
Expenses Requested:	\$0.00	Fees Previously Awarded:	\$0.00
Fees Previously Awarded and Fees Held Back:	<u>\$0.00</u>	Fees Previously Awarded, but Not Yet Paid:	\$0.00
Total Fees and Costs Requested:	\$10,000.00	Fees Held Back:	\$0.00
		Total Fees (Previously Awarded and Held Back)	\$0.00
		Expenses Previously Requested:	\$0.00
		Expenses Previously Awarded:	\$0.00

For a chronological listing of all services rendered and all expenses incurred on behalf of Debtor, the applicant has attached to this application a true and correct copy of the applicant's time sheet for hourly fees incurred from August 26, 2021 through January 10, 2022, as Exhibit "A".

Applicant certifies that the Debtor has received the application for compensation and reimbursement for expenses and has indicated that they have no objection to the fees at this time but reserve the right to file a separate opposition to the application prior to the hearing.

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I.
INTRODUCTION

Yale & Baumgarten, LLP was employed by the Debtor, Dana Linett as special counsel via an order of this Court that was executed on August 26, 2021. (Docket No. 256 (confirming tentative ruling Docket No. 252.) Eugene P. Yale, on behalf of his firm, respectfully requests this Court to award, as an administrative expense for services rendered in connection with these bankruptcy proceedings, the sum of \$10,000 for professional fees, which represents fees accrued (as capped by the Fee Agreement) during the time period from August 26, 2021 through January 10, 2022. This is Yale & Baumgarten, LLP's first fee application.

II.
NARRATIVE SUMMARY

On July 29, 2021, the Debtor, Dana Linett (the "Debtor"), herein filed a petition for relief in this Court pursuant to 11 U.S.C. The Debtors applied to employ Yale & Baumgarten, LLP to review the underlying litigation files from Debtor's divorce proceeding against Barbara Linett, San Diego Superior Court case no. D545205, and analyze the merits of Debtor's claims for Legal Malpractice against (a) Julia Garwood, Casey Reeves, and Julia M. Garwood, a Professional Law Corporation, the Law Offices of Julia M. Garwood, APLC dba Garwood Family Law & Mediation Law Offices, and/or Mediation Center of Julia M. Garwood, APC (collectively "Garwood Parties"); (b) Linda Cianciolo (and any law firm or entity with whom she may have been affiliated during the relevant time); and/or (c) Linda Pabst de Leon (and any law firm or entity with whom, she may have been affiliated during the relevant time).

Yale & Baumgarten, LLP reviewed and analyzed the files and records of the Debtor in order to determine the Debtor's claims for Legal Malpractice. While Yale & Baumgarten, LLP was performing its retained tasks, Debtor's claims were assigned to Thomas Hebrank, Liquidating Trustee, pursuant to the Joint Liquidating Plan of Reorganization filed September 16, 2021. After a diligent review of materials Yale & Baumgarten, LLP has discussed the merits of Debtor's claims with the Trustee and Trustee's counsel with the Debtors in detail. There are presently two legal malpractice complaints pending litigation in the San Diego Superior Court styled Linett v. Garwood, case number 37-2016-00021440-CU-PN-CTL and Linett v. De Leon, case number 37-2021-00039806-CU-PN-CTL. Because those lawsuits are pending and are the subject of ongoing litigation, Yale & Baumgarten, LLP's analysis, findings, and opinions, are

1 intentionally omitted from this application pursuant to the Attorney Client Privilege and Attorney
2 Work Product Doctrine.

3 The Debtor selected the law firm of Yale & Baumgarten, LLP because of its experience
4 in rendering counsel to clients with professional negligence claims against their former attorneys.
5 Yale & Baumgarten, LLP, has extensive experience in litigation matters specifically related to
6 claims of legal malpractice as well as family law litigation. Mr. Yale has over forty years of
7 experience in litigation matters (and over 25 years in the malpractice area), Mr. Baumgarten has
8 nearly thirty years of experience in litigation matters (and over 15 years in the malpractice area),
9 and Ms. Yale has over 10 years of experience litigating family law matters (and has been
10 extensively involved in the firm's malpractice litigation during those years as well). Yale &
11 Baumgarten, LLP has represented clients in various trials against legal practitioners.

12 Family Law litigation matters involving assets and businesses such as Debtor's are
13 usually complicated and intense, and this particular case has a substantially longer and more
14 complex procedural history (both pre- and post-judgment) than most divorces. Therefore, it was
15 necessary to employ special counsel experienced in such litigation as it relates to and arises from
16 specific aspects of family law litigation and procedure. Because of Yale & Baumgarten, LLP's
17 extensive experience in the area of legal malpractice as well as family law litigation in particular,
18 the Debtor believed it would be best suited to assist the Debtor and Debtor's counsel in the
19 adversarial matter. Due to the complexity and intensity of the underlying litigation and its
20 complicated/involved procedural history, the Debtor believed the employment of Yale &
21 Baumgarten, LLP was necessary to ensure the full and effective analysis of his potential legal
22 malpractice claims against his former attorneys.

23 **III.** 24 **CONCLUSION**

25 **WHEREFORE**, your applicant prays that upon hearing in this matter, the Court issue an
26 order:

- 27 1. Approving professional attorneys' fees of Yale & Baumgarten, LLP, from August
28 26, 2021 through January 10, 2022 in the amount of \$10,000 as capped by the
retainer agreement;

1 2. Authorizing payment of the same;

2 3. For such other and further relief as the Court may deem just and proper.

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4 Dated: January 12, 2022

/s/ Eugene P. Yale

Eugene P. Yale

Yale & Baumgarten, LLP, LLP

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EXHIBIT A

Yale & Baumgarten LLP
 1450 Frazee Road
 Suite 403
 San Diego, CA 92108
 619-220-8790

Yale & Baumgarten LLP

Dana Linett
 P.O. Box 3507
 Rancho Santa Fe, CA 92067

Balance \$22,287.50
Invoice # 02130
Invoice Date January 13, 2022
Payment Terms
Due Date

Dana Linett Legal Malpractice Claim Review

Time Entries

Date	EE	Activity	Description	Rate	Hours	Line Total
08/27/2021	SMY	Review	Review email from Mr. Linett re BK court approval and status of underlying malpractice litigation; briefly review electronic folder with first set of 100+ documents	\$300.00	0.50	\$150.00
09/01/2021	SMY	Phone Call	Phone call with client re physical files; phone call with attorney Smaha re digitizing files; review electronic folder of files from Smaha firm	\$300.00	0.25	\$75.00
09/02/2021	SMY	Email exchange	Email exchange with client re transmission of file boxes	\$300.00	0.20	\$60.00
09/03/2021	SMY	Email exchange	Email exchange with client re contentions; review multiple emails from client re same and review attached documents	\$300.00	1.00	\$300.00
09/03/2021	SMY	Review	Review file contents/catalog	\$300.00	1.50	\$450.00
09/09/2021	SMY	Email exchange	Email exchange with client re additional documents and boxes will be delivered	\$300.00	0.25	\$75.00
09/10/2021	SMY	Review	Brief review of contents of 10 boxes delivered by client to prioritize documents to be reviewed	\$300.00	0.75	\$225.00
09/10/2021	SMY	Review	Email exchange with client re original email files; phone call re same; draft letters to former counsel requesting their files directly	\$300.00	1.00	\$300.00
09/15/2021	SMY	Review	Review numerous emails from client	\$300.00	0.50	\$150.00
09/16/2021	SMY	Review	Brief review of 11 boxes delivered by client; organize for priority of review	\$300.00	1.00	\$300.00
09/22/2021	SMY	Review	Review and catalog contents of boxes delivered by client; review files within	\$300.00	3.00	\$900.00
09/23/2021	SMY	Phone Call	Phone call with attorney Corinne Bertsche (Garwood's malpractice counsel) re underlying file	\$300.00	0.30	\$90.00
09/28/2021	SMY	Review File	Research and analyze conflict and waiver issues	\$300.00	1.75	\$525.00

09/29/2021	SMY	Email exchange	Email exchange with Corinne Bertsche re electronic file link (more than 50,000 bates pages; more than 16,000 pages in correspondence files alone); review contents of files and prioritize documents to review; download files	\$300.00	1.50	\$450.00
09/30/2021	SMY	Review File	Continue reviewing and cataloging file contents	\$300.00	2.00	\$600.00
10/04/2021	SMY	Review File	Review and analyze email communications	\$300.00	3.25	\$975.00
10/04/2021	SMY	Email exchange	Email exchange with client re files received	\$300.00	0.20	\$60.00
10/05/2021	SMY	Review	Review and catalog box contents; review files	\$300.00	2.00	\$600.00
10/08/2021	SMY	Review File	Review and analyze pleadings/trial briefs	\$300.00	2.60	\$780.00
10/12/2021	SMY	Review	Review and analyze correspondence files	\$300.00	2.75	\$825.00
10/14/2021	SMY	Review File	Review and analyze pre-trial/pre-mediation email communication/concerns/advice between Garwood/Reeves and Mr. Linett	\$300.00	1.50	\$450.00
10/23/2021	SMY	Review File	Review and analyze correspondence files	\$300.00	2.00	\$600.00
10/25/2021	SMY	Review File	Continue reviewing underlying case file	\$300.00	3.00	\$900.00
10/26/2021	SMY	Review	Continue reviewing underlying case file	\$300.00	3.00	\$900.00
10/26/2021	SMY	Email exchange	Email exchange with attorney Smaha and client re status of file review and extensive nature of files received for review beyond originally estimate of file size	\$300.00	0.25	\$75.00
10/26/2021	SMY	Review	Review transcripts from Prenup Revocation Trial; review settlement transcript; review transcripts from earlier motions;	\$300.00	2.50	\$750.00
10/27/2021	SMY	Email exchange	Email exchange with attorney Bertsche re text messages not yet produced	\$300.00	0.20	\$60.00
10/27/2021	SMY	Review	Review email from attorney Bertsche re text messages produced; review text message attachments	\$300.00	0.40	\$120.00
10/27/2021	SMY	Email exchange	Email exchange with client and attorney Smaha re status of extensive file review	\$300.00	0.40	\$120.00
11/05/2021	SMY	Phone Call	Phone call with client	\$300.00	1.00	\$300.00
11/06/2021	SMY	Analyze	Perform in-depth analysis of final mediation, settlement entered on record, and comparison to final settlement agreement	\$300.00	2.00	\$600.00
11/09/2021	SMY	Conference	Conference with EPY re status of file review and preliminary findings	\$300.00	0.50	\$150.00
11/09/2021	EPY	Conference	Conference with SMY re preliminary findings based on file review	\$390.00	0.50	\$195.00
11/09/2021	SMY	Email exchange	Email exchange with client	\$300.00	0.20	\$60.00
11/12/2021	SMY	Email exchange	Email exchange with attorney Grebing re service of De Leon complaint	\$300.00	0.20	\$60.00
11/12/2021	SMY	Phone Call	Phone call with John Smaha re review of voluminous file	\$300.00	0.20	\$60.00
11/12/2021	SMY	Email exchange	Email exchange with client re status of review	\$300.00	0.40	\$120.00
11/18/2021	SMY	Email exchange	Email exchange with client re status of bankruptcy proceeding	\$300.00	0.20	\$60.00
11/30/2021	SMY	Analyze	Conduct in-depth analysis of malpractice claims re pre-judgment divorce issues	\$300.00	2.00	\$600.00
12/03/2021	DWB	Review	Review SMY e-mail; conference call w/ SMY and EPY (x2) re status and issues	\$350.00	1.40	\$490.00

12/03/2021	EPY	Conference	Conference with SMY and DWB re analysis of claims	\$390.00	1.50	\$585.00
12/03/2021	SMY	Conference	Review and revise outline/chronology; issue analysis; Conference with EPY and DWB re overview of malpractice analysis	\$300.00	2.50	\$750.00
12/05/2021	SMY	Draft	Draft attorney work product chronology, timeline, outline of major malpractice issues	\$300.00	2.00	\$600.00
12/06/2021	SMY	Review & Revise Document	Review and revise and continue drafting attorney work product chronology, timeline, outline of major malpractice issues	\$300.00	4.00	\$1,200.00
12/06/2021	SMY	Review & Revise Document	Review and revise and finalize attorney work product chronology, timeline, outline of major malpractice issues	\$300.00	4.00	\$1,200.00
12/08/2021	SMY	Phone Call	Video conference with Trustee Thomas Hebrank re analysis of malpractice claims	\$300.00	0.50	\$150.00
12/08/2021	EPY	Conference	Zoom conference with Trustee Thomas Hebrank re analysis of malpractice claims	\$390.00	0.50	\$195.00
12/08/2021	SMY	Conference	Conference with EPY/DWB re analysis of malpractice claims	\$300.00	2.00	\$600.00
12/08/2021	EPY	Conference	Conference with DWB and SMY re analysis of issues	\$390.00	2.00	\$780.00
12/08/2021	DWB	Conference	Conference with EPY and SMY re analysis of malpractice claims	\$350.00	2.00	\$700.00
12/09/2021	SMY	Phone Call	Phone call with Mr. Linett; conference with EPY re same	\$300.00	1.00	\$300.00
12/21/2021	EPY	Phone Call	Phone call with attorney Everett Barry and Kelly Tran re analysis of malpractice claims	\$390.00	0.75	\$292.50
12/21/2021	SMY	Phone Call	Phone call with attorney Everett Barry and Kelly Tran re analysis of malpractice claims	\$300.00	0.75	\$225.00
01/10/2022	SMY	Phone Call	Conference with EPY and DWB; Phone call with Kelly Tran	\$300.00	0.50	\$150.00

Totals: **72.15** **\$22,287.50**

Time Entry Sub-Total:	\$22,287.50
Sub-Total:	\$22,287.50
Total:	\$22,287.50
Amount Paid:	\$0.00
Balance Due:	\$22,287.50